

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of CHMIELEWSKI, Minors.

UNPUBLISHED  
October 17, 2013

No. 315259  
Jackson Circuit Court  
Family Division  
LC No. 10-001828-NA

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Before: SERVITTO, P.J., and WHITBECK and OWENS, JJ.

PER CURIAM.

Respondent-mother appeals as of right from a circuit court order terminating her parental rights to her two minor children pursuant to MCL 712A.19b(3)(c)(i) (182 or more days after initial dispositional order, conditions leading to adjudication still exist, and no reasonable likelihood they will be rectified), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if returned to parent's home). We affirm.

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The original condition that led to adjudication was that respondent took the children for unnecessary and repeated medical examinations, alleging sexual abuse, even after it was determined that the allegations were unfounded. The evidence indicated that she may have coached the children in making allegations, and that the multiple, unnecessary examinations were harmful to the children. Throughout the lengthy case proceedings, respondent was unable to accept the possibility that there was no abuse. Although respondent was provided with psychological evaluations, individual counseling, and parenting support, she showed no progress. Two psychological evaluations of respondent, which were approximately one year apart, indicated that she was adamant that sexual abuse was still occurring and that she showed no progress or change. There was testimony that if the children were returned to her care, it was highly likely there would be additional allegations of sexual abuse and the children would be subjected to additional unnecessary examinations. Accordingly, there was evidence that the condition that led to adjudication continued to exist and there was no reasonable likelihood that the condition would be rectified when respondent failed to benefit from the services provided to her.<sup>1</sup> Additionally, this same evidence indicates that respondent was unable to provide proper

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<sup>1</sup> There is no dispute that 182 days elapsed between the initial disposition order and termination.

care and custody and that there was a reasonable likelihood the children would be harmed if returned to her home. Thus, the trial court did not clearly err in finding clear and convincing evidence to support termination pursuant to MCL 712A.19b(3)(c)(i), (g) and (j).<sup>2</sup>

The preponderance of the evidence also establishes that termination of respondent's parental rights was in the children's best interests. *In re Moss*, 301 Mich App 76, 90; \_\_\_ NW2d \_\_\_ (2013). There was evidence that the children needed stability and permanency that could not be obtained while the ongoing court proceedings were taking place. See *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). There was also evidence that it was likely there would be further allegations and examinations if the children were returned to respondent. Although there was some bond between respondent and the children, there was evidence that the children became anxious before visits, that they were ready to leave when visits with her ended, and that parenting time was confusing for them. Thus, the trial court did not err when it found termination was in the best interests of the children pursuant to MCL 712A.19b(5).

Respondent also challenges the weight the trial court gave to the testimony of various witnesses. Respondent argues that the trial court determined that some of the testimony was irrelevant because it was historical and pre-adjudicative, but then relied on other testimony that was also historical and pre-adjudicative. However, the record does not reflect that the pre-adjudicative nature of some of the testimony was the sole reason the trial court disregarded it. Instead, the record indicates the trial court clearly considered all of the testimony and did not give weight to some of the testimony because it was procedural and not relevant. Giving due regard to the trial court's special opportunity to observe the testimony of the witnesses and judge credibility, we cannot find that the trial court clearly erred with regard to the challenged findings. MCR 2.613(C); *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

Affirmed.

/s/ Deborah A. Servitto  
/s/ William C. Whitbeck  
/s/ Donald S. Owens

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<sup>2</sup> In reaching our conclusion, we reject respondent's suggestion that she was not afforded adequate services. Respondent rejected the therapist offered by the agency and engaged in counseling with a therapist of her choice. There was also testimony that no other services could have been offered for respondent.